

March 15, 2004

William Anido
Southeast District Manager
Parsons Brinckerhoff
7300 Corporate Center Drive
Suite 600
Miami, FL 33126

RE: REQUEST FOR ADVISORY OPINION 04-24

Dear Mr. Anido:

The Commission on Ethics and Public Trust considered your request for an advisory opinion at its meeting on March 10, 2004 and rendered its opinion based on the facts stated in your letter.

You requested an opinion regarding any potential conflicts of interest related to serving as Program Management Consultant for the People's Transportation Plan.

Miami-Dade County recently issued a Notice to Professional Consultants for a Program Management Consultant for the People's Transportation Plan. The Program Management Consultant (PMC) will hold a non-exclusive seven-year contract with Miami-Dade County to manage, with the support and supervision of Transit and Public Works staff, the various phases of implementing the People's Transportation Plan. Specifically, the Scope of Services requires the PMC to be responsible for short and long-range transit

planning, facilities planning, feasibility studies, oversight of construction, engineering and inspection consultants and design criteria and standards. Transit will hire additional firms to do the actual design and construction inspection work but they will work under the direction of the Program Management Consultant team. As noted in the NTPC and our review of this matter, it is the intention of the County that the Program Management Consultant act as county staff in the areas for which the Consultant will provide staff and technical assistance. The contract should be awarded in the summer of 2004.

The People's Transportation Plan consists of several projects including highway and road improvements, bus service improvements and neighborhood improvements. The heart of the project is several rapid transit improvements including:

- Ø The North Corridor- The North Corridor will run from the Dr. Martin Luther King Jr. Metrorail Station (N.W. 27th Avenue and 62nd Street) along N.W. 27th Avenue to 215th Street.
- Ø The East West-Corridor- The East-West Corridor consists of two segments from the Florida Turnpike east to the Palmetto Expressway and from the Palmetto through Miami International Airport and Downtown Miami and to the Port of Miami-Dade
- Ø Baylink- A corridor between downtown Miami and Miami Beach
- Ø Kendall Corridor- A corridor with east-west and north-south elements

Preliminary studies and design work has already been conducted on these corridors. As noted in more detail below, Parsons Brinckerhoff has taken part in these studies on behalf of one or more of the funding agencies including the Metropolitan Planning Organization, the Florida Department of Transportation and the Miami-Dade Expressway

Authority. In cases where responsibilities may overlap, Transit Department officials have stated that County staff will assume full management responsibilities.

Pursuant to Section 2-11.1(w), the Ethics Commission has jurisdiction over contractors and vendors. Section 2-11.1(j) restricts persons covered by the Conflict of Interest and Code of Ethics ordinance from doing work that conflicts with their independence of judgment in performing their County responsibilities. Pursuant to that section of the Conflict of Interest and Code of Ethics ordinance, the Ethics Commission has delineated certain areas including overlapping responsibilities that would impair a contractor's independent judgment in the performance of its duties for the County. The analysis of potential conflicts, in this case, is generally limited to the requestor's contracts with Miami-Dade Transit and does not analyze potential conflicts with contracts with other agencies.

The Ethics Commission found that Parsons Brinckerhoff may serve as Program Management Consultant subject to the limitations contained herein. Parsons Brinckerhoff has previously provided architectural and engineering services on a number of contracts related to the People's Transportation Plan. The Ethics Commission reviewed each agreement individually.

- Parsons Brinckerhoff (PB) performed engineering work related to the North Corridor, both as a prime consultant and as a subcontractor to HTNB. In these capacities, the firm prepared the original environmental impact study (EIS) for the North Corridor. PB is also currently working on the Final Engineering and Impact Study (FEIS) for the North Corridor project. The work is scheduled for completion in April 2004.

Parsons Brinckerhoff's work on the North Corridor should not constitute a conflict as long as all work is completed prior to commencement of work by the Program Management Consultant.

- Parsons Brinckerhoff also prepared a draft Environmental Impact Study (DEIS) for the MIC-Earlington Heights Metrorail Extension. Parsons Brinckerhoff is currently working on the Final Engineering and Impact Statement for this project. The project is anticipated to be concluded by early Fall, 2004.

Parsons Brinckerhoff's work on this project should not constitute a conflict if the work is completed prior to the commencement of work by the Program Management Consultant. If the work is not completed by that date, Transit must assume any management responsibilities related to completion of the FEIS.

- Additionally, PB holds a General Engineering Contract for Miscellaneous Services with Miami-Dade Transit. The work orders for this contract include several tasks associated with the People's Transportation Plan including developing New Starts criteria for all of the rail transit corridors.

In order to avoid any potential conflict under this agreement, Transit may not assign any work orders related to the People's Transportation Plan to Parsons Brinckerhoff under this agreement.

- As a consultant for the Metropolitan Planning Organization, PB was selected to develop the alternatives analysis

and the draft environmental impact study for the Baylink project. The firm is currently negotiating a supplement to this contract to complete the final engineering and impact study.

Although the Baylink project will overlap with the People's Transportation Plan, any potential conflicts regarding the Metropolitan Planning Organization are outside of the scope of this opinion.

- PB also served as prime consultant for the East-West Multimodal Corridor Study. PB completed the EIS process and received a Record of Decision from the Federal Transit Agency in 1998. Due to environmental changes since 1998, the study will be re-evaluated as part of the People's Transportation Plan.

Parsons Brinckerhoff's prior work on the East-West Multimodal Corridor Study should not constitute a conflict because the work has been completed and another firm will handle any updating.

- PB also serves as part of Dade Transportation Consultants (DTC). Dade Transportation Consultants is the General Engineering Consultant for the Miami-Dade Expressway Authority. As General Engineering Consultant, PB provides overall program management and engineering design services for the Miami-Dade Expressway Authority.

Although some Miami-Dade Expressway Authority projects will overlap with the People's Transportation Plan, any potential conflicts are outside of the scope of this opinion.

Therefore, Parsons Brinckerhoff may serve as Program Management Consultant for the People's Transportation Plan subject to the limitations contained herein.

This opinion construes the Miami-Dade Conflict of Interest and Code of Ethics ordinance only and is not applicable to any conflict under state law. Please contact the State of Florida Commission on Ethics if you have any questions regarding possible conflicts under state law.

If you have any questions regarding this opinion, please call the undersigned at (305) 579-2594 or Ardyth Walker, Staff General Counsel at (305) 350-0616.

Sincerely Yours,

ROBERT MEYERS
Executive Director

Cc: Luisa Millan Donovan, CICC